



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

ENE/165608

PRELIMINARY RECITALS

Pursuant to a petition filed April 22, 2015, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Grant County Department of Social Services in regard to Energy Assistance (Wisconsin Home Energy Assistance Program or WHEAP or EA), a hearing was held on June 9, 2015, at Lancaster, Wisconsin. The hearing record was held open for 7 days for a submission from the parties; nothing was received.

The issue for determination is whether the agency correctly denied the petitioner's March 2015 EA application for failure to verify a household member's income.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Administration
101 East Wilson Street
Madison, Wisconsin 53703

By: LeaAnne Smith, Adm.Asst./Fuel Outreach Worker
Grant County Department of Social Services
Hwys 35 and 61 South
P.O. Box 447
Lancaster, WI 53813

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Grant County, residing at [REDACTED].

2. The petitioner applied for Energy Assistance on March 10, 2015. The state agency subsequently issued written notice of denial of EA in April 2015.
3. The petitioner resided at the [REDACTED] above in March and April 2015. That property is owned by [REDACTED]. The petitioner and [REDACTED] have a child in common, for which he is not paying child support. [REDACTED] has income, as he owns seven pieces of real property. The agency requested verification of [REDACTED]'s income as part of the EA application process. It was not provided as of April 15, 2015 (or thereafter).
4. [REDACTED] lived with the petitioner at the above [REDACTED] during the pendency of the EA application.

DISCUSSION

For Energy Assistance purposes, the agency must consider all gross income received in the three months preceding application. *Wisconsin Home Energy Assistance Program, Operations Manual (WHEAP Manual)*, §2.3.2, at <http://homeenergyplus.wi.gov/>, “Grantee Information” (January 2015). No deductions are allowed unless specifically exempted. *Id.* If gross income is above the income limit (“under 60% of state median income”), the household cannot qualify for Energy Assistance. *See*, chart at, <http://homeenergyplus.wi.gov/refcenter.asp>, “Program Descriptions” button. Because there is an income test, the agency must get income verification on all adult household members. *WHEAP Manual*, § 3.3.3.

When verification is not provided within 30 days of the application date, the agency is required to deny the application. *Id.*, § 3.1.9. That is what happened here.

The petitioner does not deny that she was asked for [REDACTED]'s income verification, and that she failed to provide it. Rather, she argues that [REDACTED] was not a member of her household in March and April 2015.

Household members are defined as follows:

Counting Household Members

... All persons in the economic unit are considered members of the household if they are in the household on the date of application.

Id., p.2.2.6.

Economic Unit

A person or group of related or unrelated persons who live together in a dwelling unit and jointly share in providing or being provided for the necessities of life for the person(s) in the group. The necessities of life are shelter, heat and utilities.

NOTE: Persons living in a housing arrangement who have their own room and who share common spaces are all part of a single economic unit.

Id., Ch.10 (2015). Per these definitions, the agency was correct in requesting [REDACTED]'s income verification, as [REDACTED] was a member of the petitioner's economic unit/household.

The petitioner argues that [REDACTED] was not living with her *in his own residence*. She was not credible. She testified that they have an on and off relationship. If [REDACTED] was not living with her, he should have been paying her child support for their child-in-common (and he was not paying). [REDACTED] listed [REDACTED] as her household member when she applied for BadgerCare Plus insurance in November 2014. During her

March 10, 2015 EA phone interview, she told the worker that [REDACTED] lived with her. Further, [REDACTED] filed a small claims action on December 30, 2014, asserting that he lived at the [REDACTED]. That remained his address of record when judgment was granted on March 23, 2015. *See*, Grant County Case no. 2014SC000763. The petitioner also complained about the tone and content of some questions asked by the investigator who interviewed her at her [REDACTED] residence on April 14, 2014 (date on O'Brien report). Although his tone may have been inappropriate, that does not change the facts found here.

Thus, the petitioner has not met her burden of proving that the application denial was incorrect.

CONCLUSIONS OF LAW

The agency correctly denied the petitioner's March 2015, EA application due to failure to verify the income of a household member, [REDACTED] [REDACTED].

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

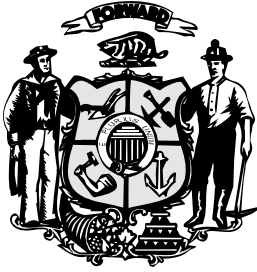
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Administration, 101 East Wilson Street, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 6th day of August, 2015

\sNancy J. Gagnon
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on August 6, 2015.

Grant County Department of Social Services
DOA - Energy Assistance